IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO. 425 OF 1990

State of Maharashtra .. Appellant

versus

Suresh Lotan Shevale .. Respondent

...

Mr.D.P. Adsule, APP for the State.

None for the respondent.

CORAM : V.M. KANADE, J

DATED : 24th November 2004.

ORAL ORDER:-

1. Heard the learned APP appearing on behalf of the State. None appears for the respondent.

2. The State is challenging the judgement and order passed by the Special Judge, Thane, at Thane. by the said judgement and order, the trial Court acquitted the accused of the offence punishable u/s.161 of the IPC and sec.5(2) r/w sec.5(1)(d) of the

Prevention of Corruption Act 1947. The prosecution case is that the accused was working as a Talathi on 5th November 1984. The complainant Kanchan Ramaji Wadu had made an application to the Tahsildar requesting him to issue certain extracts of his land. The accused had his office in the same building where the Tahsildar's office was situated. The said Kanchan Wadu met the accused and asked him to give copy of the extracts. The accused then demanded Rs.250/- from him. Part of the amount i.e. Rs.150/- was paid on 6th November 1984 and remaining amount was to be paid on 8th November 1984. A complaint was lodged by the said Kanchan Wadu in the Anti Corruption Bureau. The pre-trap panchnama was arranged and the raiding party went to the place where the accused was to accept the bribe. Kanchan paid Rs.100/- to the accused who accepted it and he was caught red handed. By way of defence, the accused submitted that he had accepted the said amount as the costs of giving two set of extracts Rs.76/- and before he could return the balance amount to the complainant, raiding party had apprehended him.

3. The learned APP has taken me through the evidence adduced by the prosecution. It is an

admitted position that for giving the copy of extracts, certain costs are incurred which are to be paid by the person who makes an application for copy of extracts. The only question which remains therefore, is whether the accused received the amount as bribe or illegal ratification or the amount was received by him towards the cost incurred in preparing 2 sets of extracts. The trial Court has elaborately discussed the evidence on record and has come to a conclusion that prosecution has not proved that the said amount was accepted as bribe. The panch witnesses were examined by the prosecution, also have not established that the demand was made by the accused towards illegal ratification and that the accused had accepted the amount for the same purpose. Thus,the demand and acceptance have not been proved by the prosecution. In my view, there is no reason to interfere with the finding recorded by the trial Court. The trial Court has given cogent reasons. The finding also cannot be said to be perverse. The view taken by the trial Court is a possible view.

4. Appeal therefore filed by the State is dismissed and the judgement and order of the trial Court is confirmed.

V.M. KANADE, J